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December 14, 2016

Felicia Marcus, Chair and  
State Water Resources Control Board Members  
P.O. Box 100  
Sacramento, CA 95812-0100

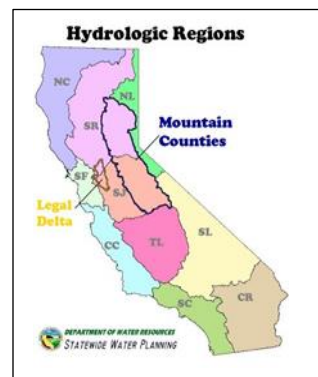
Regarding: Making Conservation a Way of Life – Public Review Draft

Dear Chair Marcus and Board members -  
D'Adamo, Doduc, Moore, and Spivy-Weber,

Thank you for the opportunity to comment on the Public Review Draft elements of Executive Order B-37-16, which directed state agencies to develop a framework for using water more wisely, eliminating water waste, strengthening local drought resilience, and improving agricultural water use efficiency and drought planning.

Mountain Counties Water Resources Association (MCWRA) advocates for the water interests of its members in all or a portion of 16 counties from the southern tip of Lassen County down to Fresno County.

The Mountain Counties Area includes ten major watershed areas and accounts for about 25% of all natural runoff in California, over half of all snowmelt runoff in the State, and 40% of the state's developed water supply, more than from any other single source. This total increases to more than 60% of the state's developed water supply when combined with other waters from sources within the entire Sierra Nevada.



Significant to California is that water stored behind reservoirs in the ten major watershed areas have dedicated in-stream flow releases designed to meet the many beneficial uses for the environment, recreation, agriculture, and urban needs. The reservoirs also provide storage capacity to reduce the magnitude of flood flows and pressure on the Delta levee system, as well as, providing for hydroelectricity to supply homes and businesses in the western United States.

This regulatory approach is of significant concern as it represents a fundamental shift of local control to a permanent regulatory conservation framework that is inequitable to this region. These measures will erode land use, water rights, adversely affect wildlife habitat, recreation, tourism, our economies and the quality of life people enjoy in this region. The Public Review Draft is indisputably regulatory overreach, infeasible, cost prohibitive, and destined for failure.

Californians can take full credit for willingly sacrificing landscape and adjusting habits to save water supply for another year. Education and messaging created a high level of public awareness and made consumers more conscience of our finite fresh water supply. Thus, consumers have learned to use water wisely without the state imposing permanent conservation regulations. Consumers will be quick to react that the state is hypocritical by operating with both a carrot and stick.

In California, the statewide average water use is roughly 10% urban, 40% agricultural, and 50% for the aquatic environment. Though highly successful, urban consumers only conserved 2.5 % of the total statewide water demand. Thus, in review of the Public Review Draft, it begs several questions that the State is encouraged to consider before moving forward:

1. Why the need for permanent regulations on urban uses when 90% of the statewide water use comes from other uses?
2. Why not focus/fix the several other issues identified in the Water Action Plan 2016 that could increase water supply, thus lessening the urban and agricultural water demand issues?
3. Who or What gets the conserved water from any permanent conservation regulation?
4. Why does the state encourage local control, yet seeks to expand regulatory authority to execute the recommendations in the draft framework?
5. Why does the state plan to extend the “emergency regulations” another 270 days when most water agencies went through the exercise and satisfied the state’s “stress test” for reliable water supplies?
6. Why impose indoor and outdoor targets/standards on water agencies that have demonstrated responsible stewardship, invested for the future, and created a water supply portfolio that provides water reliability and resiliency for their ratepayers?
7. How will the state consider California Water Code Section 1011 as it applies to conserved water in this region?
8. How will “hardened demand”, created by the continued ratcheting and rationing, build resilience to future droughts, especially when the warming climate will increase water demand?
9. What is the cost in millions of dollars to the California taxpayer for the increment of water saved? Why not consider funding improvements to increase water supply for the next generation to thrive rather than only survive?

On October 21, 2016, Mountain Counties Water Resources (MCWRA) and Urban Water Institute (UWI) offered the Water Board seven policy principles to consider:

1. Take the time to properly engage the appropriate stakeholders to debate what lifestyle we are imposing on the citizens, what costs we are incurring, the tradeoffs of that policy against other approaches, and, ultimately, what we will consider a waste.
2. Any long-term State water use efficiency requirements must consider environmental, economic and quality of life considerations.
3. Narrative standards are preferable to quantitative allocations/rationing. The water utility community needs flexibility that acknowledges there is no “one size fits all” formula to encourage water use efficiency. People live in California for diverse socioeconomic reasons, sometimes by necessity, and often for a certain quality of life. The ability to customize standards based upon local conditions is essential.
4. Water conservation regulations are a value-laden social topic that is more sustainable when developed at the local level.

5. Long-term efficiency standards should recognize and credit local water supply development efforts, growth, regulatory requirements and climate.
6. The self-certification process currently in place that emphasizes local discretion and drought preparedness history is workable.
7. The State should encourage and support investments in drought-resiliency, water-use efficiency technology, and other incentives such as water transfers from this region of conserved water.

Based on the November 2016 Public Review Draft, it appears little consideration was given to the seven suggested policy principles offered from both northern rural communities and southern urban communities. The Water Board is encouraged to consider the suggested principles in the letter.

A primary MCWRA objective and goal is to assist the region in protecting water rights to ensure regional certainty for a reliable, sustainable water supply for its economic and environmental well-being for future generations.

The County of Origin Law (Water Code section 10505) was enacted in 1931 in response to plans then underway to build what ultimately became the State Water Project and Central Valley Project, to export major amounts of water – in large part from the Mountain Counties Area – to other parts of the state. In 1933, as part of the Central Valley Project Act, the State added the Watershed Protection Statute (Water Code sections 11460 to 11463). In the seminal legal analysis of these area-of-origin laws, Attorney General Edmund G. Brown explained, “These two statutes were enacted at different times and appear in different parts of the Water Code. However, they have a common purpose, i.e., *to reserve for the areas where water originates some sort of right to such water for future needs which is preferential or paramount to the right of outside areas, even though the outside areas may be the areas of greatest need or the areas where the water is first put to use as the result of operations of the Central Valley Project.*”

These longstanding state assurances are paramount to this regions quality of life and should be honored unequivocally such that no state and/or federal agency exert regulatory authority to hinder or reallocate area-of-origin and/or watershed-of-origin water supplies that lays harm to the communities and eco-systems in the Mountain Counties Area.

There are four overarching objectives to the Public Draft:

- ❖ **Using Water More Wisely**
- ❖ **Strengthening Local Drought Resilience**
- ❖ **Eliminating Water Waste**
- ❖ **Improving Agricultural Water Use Efficiency and Drought Planning**

MCWRA members and their ratepayers strongly support and have implemented the above four water management objectives as a way of life. The regional water managers and their ratepayers clearly recognize that with empty surface reservoirs in the Sierra, few options remain. It is with good business models that water agencies, isolated from each other by watersheds, provide a reliable water supply now and as water purveyors and their communities plan for the next generation.

The imposition of any sort of “water budget” conservation mandate in these “mountain rural communities” will damage their quality of life and rob the environment and wildlife of water classified as “urban water use”. Unlike coastal urban areas, all the water in this region, both indoors and outdoors not used by people or for the environmental needs of wildlife, landscape, and soil, moves down into the streams and creeks, provides beneficial uses to the valley floor, and replenishes the ground water aquifers. The people and the environment in this region are knitted together.

The Water Board is urged to factor that water in rural mountain environments, unlike urban environments, account for and promote open space, wildlife habitat, locally grown healthy food crops from small farm agriculture, livestock, carbon-free renewable hydropower energy, provide wildfire buffers, and support significant recreation and tourism not only from California, but from around the world. These are socio-economic drivers that define rural communities and differentiate urban environments from rural environments.

The application of common sense and trust should apply in this region, not mandates and standards that are inequitable, intrusive, flawed, and cost prohibitive.

The state would greatly benefit from a more strategic and holistic approach relying on local and regional water managers to manage water supply rather than by implementing regulatory measures. The Department of Water Resources, when referring to the fundamental principle of Integrated Regional Water Management (IRWM) framed it correctly, "regional water managers, who are organized into regional water management groups, are best suited and best positioned to manage water resources to meet regional needs."

Water conservation and shortage regulations require social solutions at the local level.

We fully recognize that the Water Board is faced with tough and complex decisions. Constructive discussion with water managers who live, work, and recreate in the Mountain Counties Area can provide helpful information in your decision-making process. I would like to suggest a meeting with key regional water managers to help Board members better understand the diversity in the Mountain Counties Area and its significance to the rest of the State. The key to managing for sustainability in California is first seek to achieve the goal in the Mountain Counties region, starting at the crest of the Sierra.

Thank you for your consideration.

Sincerely,



John Kingsbury, Executive Director  
Mountain Counties Water Resources Association

c: Jim Noyes, Executive Director, Urban Water Institute  
Board of Directors, Mountain Counties Water Resources Association

The Honorable:

Assembly Member Frank Bigelow  
Assembly Member Brian Dahle  
Assembly Member James Gallaher  
Assembly Member Kevin Kiley

Senator Tom Berryhill  
Senator Ted Gaines  
Senator Jim Nielsen